

REMARKS

Responsive to the Office Action mailed 16 July 2008 and with an extension of time of ONE MONTH, the fee for which is paid herewith, the present paper is timely filed on or before 17 November 2008, the first day after 16 November 2008 that is not a Saturday, Sunday, or holiday in the District of Columbia.

By the present paper, claims 1, 2, 6, 9, 10, 13, 14, 15, 16, 20, 22, 24, 33, and 44 are amended and claims 7, 18, 19, 21, and 23 are cancelled. Claims 26-30, 42, and 43 were withdrawn by the Examiner. Accordingly, claims 1 - 6, 8 - 17, 20, 22, 24, 25, 31 - 41, 44, and 45 are under examination. Entry of the claim amendments and reconsideration of the Application are respectfully requested.

The Claim Amendments:

Claims 1, 2, 6, 9, 10, 13, 14, 15, 16, 20, 22, 24, 33, and 44 are amended to point-out with even greater particularity that which Applicants claim as their invention, and to respond to specific requirements imposed by the Office Action.

Concerning claim 1, the phrase “powdery to grainy” has been deleted. Concerning alleged failure of antecedent basis for “the” temperature - and other similar terms-Applicants respectfully submit that positive prior recitation of an element is not required if the skilled artisan would understand that the element was inherent in the structure. *See* M.P.E.P. § 2173.05(c). Processes like extrusion inherently have associated extrusion (process) conditions. Nevertheless, Applicants have amended claim 1 to recite that the temperature, etc., are process variables.

Applicants respectfully submit that phrases such as “mixing time for mixing” are readily parsable. For example, mixing time is the word that Applicants chose to describe how long mixing is carried out and “for mixing” merely recites the purpose or result. Nothing is unclear. Nevertheless, claim 1 is amended to point-out with even greater particularity that there are four distinct residence times: first and second preconditioner residence times and first and second agglomerator residence times.

Concerning plasticization and/or gelatinization, Applicants respectfully submit that the skilled artisan is well aware of the meanings of these terms. Plasticization (or plastification) is a process (chemical or physical or both) by or through which a material becomes or is caused to become plastically deformable. Gelatinization is clearly synonymous with gellation and is the process (chemical or physical or both) by or through which a material becomes or is caused to become a gel. The terms are not necessarily exclusive. A gel, especially a coagulation gel (gellation by coagulation) might also be plastically deformable. Hence the terms are recited disjunctively and conjunctively in the claim 1:

Applicants turn next to claim 6. Applicants respectfully submit that the skilled artisan would understand that the phrase “filled to the extent of X%” to mean filled to X% of capacity. No other construction would make sense. In any event, Applicants amend claim 6 to recite what consumes the capacity, leaving no other reasonable interpretation of the challenged phrase.

Applicants respectfully submit that the claim amendments do not introduce new matter into the Application.

Claim Rejections Under 35 U.S.C. § 112, paragraph second:

Claims 1 - 25, 31 - 41, and 44 - 45 were rejected under 35 U.S.C. § 112, ¶2 as allegedly indefinite. Applicants respectfully submit that the present amendments and claim cancellations cure any infirmity in definiteness that may have existed in these claims.

Claim Rejections Under 35 U.S.C. § 103:

Claims 1 - 25, 31 - 41, 44, and 45 were rejected under 35 U.S.C. § 103(a) as allegedly obvious over Baker et al., United States Patent 5,902,629 (“Baker et al.”), in view of Donnelly et al., United States Patent 5,334,407 (“Donnelly et al.”). Applicants respectfully traverse.

The claims of the present invention, in particular claim 1, are drawn to a multi-step process that must include at least 6 steps. These six steps can be considered as distributed over three “stages”: preconditioning, plasticizing/gelatinizing and pelletizing, and agglomeration. Each stage has at least two steps.

Baker et al. teaches a preconditioning step, a flaking step, and an agglomeration step. But the structures required to perform these steps are not juxtaposed in such a way that their operation inherently teaches or suggests the steps of Applicants claim 1.

The preconditioning steps of Applicants’ claim 1 include discrete first and second preconditioning residence times. These steps could only be carried-out with a preconditioner structure having discrete first and second (or mixing and action) substructures or subassemblies. Baker et al. does not teach or suggest such discrete substructures juxtaposed in the way required to carry-out the steps of

Applicants' inventive process.

The agglomeration steps of Applicants' claim 1 likewise require distinct first and second residence times which, as above, could only be carried-out as required by the claim if the agglomerator has discrete first and second substructures.

Baker et al. neither teaches nor suggests structures so juxtaposed that their operation as taught by Baker et al. would per force teach or suggest all of the limitations (elements) of Applicants' claim 1.

Combining Donnelly et al. with Baker et al. cannot cure this defect. Accepting, *arguendo*, that Donnelly et al. teaches a "preconditioner", operation of this device as taught by Donnelly et al. or in any way suggested by Baker et al. would not inherently result in the practice of the inventive method of Applicants' claim 1. Substituting the structure taught by Donnelly et al. into the structure taught by Baker et al. would clearly not change this fact because the "preconditioner" taught by Donnelly et al. does not have separate and discrete mixing (i.e. "first") and action (i.e. "second") chambers.

Donnelly et al. cannot possibly suggest first ("mixing") and second ("action") preconditioner residence times. Contrary to assertions in the Office Action, the "segments" of Donnelly et al. are merely zones in a single-axle, single-chamber, contiguous structure. In the preconditioner of Donnelly et al., mixing is followed by densification, and not by a conveying step in which material is conveyed to a chamber for physical and/or chemical action.

Because Baker et al., alone or in combination with Donnelly et al., would not have suggested the modification of their structures in a way that the structures could be successfully operated according to the inventive method of Applicants'

claim 1, Applicants respectfully submit that the rejection of claim 1, and all claims depending therefrom, is improper and should be withdrawn.

Concerning claim 2, this claim depends from claim 1 that, Applicants respectfully submit, includes patentable subject matter. For at least this reason, Applicants respectfully submit that the rejection is improper and should be withdrawn.

Further concerning claim 2, the steps of this method claim could only be carried-out if the preconditioner, agglomerator, and the individual chambers thereof are so juxtaposed so that each chamber has its own, independently rotatable shaft. The device of Baker et al., alone or in combination with the teachings of Donnelly et al., is incapable of being operated in the manner required by claim 2. Applicants respectfully submit that modification or combination of references is improper if, as here, the modification or combination would render the devices inoperable for their intended use, or change their principal of operation. *See* M.P.E.P. §§ 2143.01(V) & (VI). For this additional reason, Applicants respectfully submit that the rejection of claim 2 is improper and should be withdrawn.

Claims 3, 4, 5, and depend from claim 1 that, Applicants respectfully submit, contains patentable subject matter. For at least this reason, Applicants respectfully submit that the rejection is improper and should be withdrawn.

Further concerning claim 6, this claim requires that mixing and action chambers be filled to different levels (different fill volumes). Applicants respectfully submit that the preconditioner of Donnelly et al. cannot possibly function subject to this condition that is contrary to the principle of operation of the structure of Donnelly et al. For this additional reason, Applicants respectfully

submit that the rejection of claim 6 is improper and should be withdrawn.

Claims 8 - 16, 20, and 22 depend directly or indirectly from claim 1 that, Applicants respectfully submit, contains patentable subject matter. Accordingly, Applicants respectfully submit that the rejection is improper and should be withdrawn.

Further concerning claim 22, the particular arrangement of the structures plainly allows for parallel arrangement of the shafts and allows them to be operated at different speeds. This method of operation is contrary to the principle of operation of the structure taught by Donnelly et al. and the structure taught of Donnelly et al. cannot junction in this way. For this additional reason, Applicants respectfully submit that the rejection is improper and should be withdrawn.

Claim 24 depends from claim 2 that, Applicant respectfully submit, contains patentable subject matter. For at least this reason, Applicants respectfully submit that the rejection is improper and should be withdrawn.

Moreover, claim 24 requires that the chambers in the structure necessary to practice the method, as claimed, must be capable of being filled to different capacities. This is contrary to the principle of operation of the structure taught by Donnelly et al. For this additional reason, Applicants respectfully submit that the rejection of claim 24 is improper and should be withdrawn.

Claims 25, 31 - 41, 44, and 45 depend directly or indirectly from claim 1 that, Applicants respectfully submit, contains patentable subject matter. Accordingly, Applicants respectfully submit that the rejection of these claims is improper and should be withdrawn.

Conclusion:

Neither Baker et al. nor Donnelly et al., alone or in combination, teach or suggest all of the limitations of claim 1 and, taken as a whole, the method of claim 1 is not obvious over these references. Other claims depend from claim 1 that contains patentable subject matter and, accordingly, these claims likewise contain patentable subject matter.

Claims 2, 6, 22, and 24 introduce still further non-obvious elements or limitations not taught or suggested by Baker et al. The deficiencies of Baker et al. cannot be cured by combination with Donnelly et al. and there is no motivation for the combination. The proffered combination would require a change in the principal of operation of the structure disclosed by Donnelly et al., or render it unsuitable for use with the methods therein disclosed. There is no motivation for such combination. M.P.E.P. §§ 2143.02(V) & (VI). For this additional reason, the rejection of claims 2, 6, 22, and 24 should be withdrawn.

Applicants respectfully submit that, based on the foregoing amendments and remarks, the claims are now in condition for allowance, which allowance is earnestly solicited. If, in the Opinion of the Examiner, a telephone conference would advance prosecution of the Application, the Examiner is invited to call the undersigned attorneys.

REQUEST FOR EXTENSION OF TIME

Applicant respectfully requests a one-month extension of time for responding to the Office Action. **The fee of \$130.00 for the extension is provided for in the charge authorization presented in the PTO Form 2038,**

F-8387

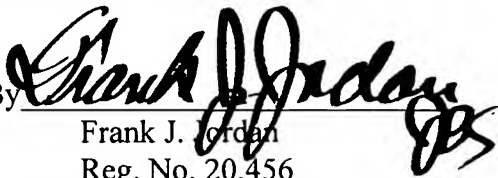
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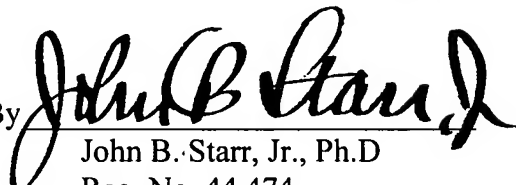
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Respectfully submitted,

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